

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**ARLYN J. EASTMAN,
Personal Representative of the Estate of
LINO LOWELL SPOTTED ELK, JR.**

Plaintiff,

V.

**COUNTY OF SHERIDAN,
LEVI MCKILLET and DOES 1-5,**

Defendants.

7:07CV5004

ORDER

This matter is before the court on the Plaintiff's' Second Motion To Amend Complaint (Filing No. 53). The plaintiff attached to the motion a copy of the proposed amended complaint. **See** Filing No. 54. The plaintiff originally filed Plaintiff's Second Motion To Amend Complaint (Filing No. 50) and a copy of the proposed amended complaint (Filing No. 51) on September 10, 2007. However, this filing was considered deficient by the deputy clerk's office due to no certificate of service. **See** Filing No. 52. The deputy clerk's office gave the plaintiff 15 days from September 11, 2007 to correct the deficiency or the motion would be stricken from the record in this case. **Id.** The plaintiff filed the current motion on September 11, 2007. The plaintiff seeks to modify the factual allegations and define terminology. The plaintiff's motion was filed after the deadline to amend the pleadings. None of the other parties to this action filed an objection to the motion. Upon consideration,

IT IS ORDERED:

1. The Plaintiff's' Second Motion To Amend Complaint (Filing No. 53) is granted.
2. The plaintiff shall have to on or before **October 23, 2007**, to file the third amended complaint.
3. The Plaintiff's' Second Motion To Amend Complaint (Filing No. 50) is denied as moot and plaintiff's Third Amended Complaint (Filing No. 51) is stricken from the record in this case.

DATED this 9th day of October, 2007.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge